NPDES GENERAL PERMIT
FOR
EGG PRODUCTION OPERATIONS (EPOs)
IN
NEW MEXICO, OKLAHOMA,
AND ON INDIAN LANDS IN NEW MEXICO AND OKLAHOMA

AUTHORIZATION TO DISCHARGE UNDER THE
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

NMG800000 AND OKG800000

In compliance with provisions of the Clean Water Act, 33 USC 1251 et seq., the "Act", owners and operators of egg production operations (EPOs), except those EPOs excluded from coverage in Part I of this permit, may apply for authorization to discharge under this permit and, once authorized, must operate their facility in accordance with effluent limitations, monitoring requirements, and other provisions set forth herein.

This general permit regulates discharges, or potential discharges, of process wastewater, rainfall or snowmelt runoff from the animal confinement or storage and handling areas, and runoff of manure and process wastewater from land application areas under the operational control of the permittee. The animal type covered by this general permit is laying hens.

A copy of this permit must be kept by the permittee at the site of the permitted EPO.

This permit will become effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION]

This permit and the authorization to discharge under the NPDES shall expire at midnight [INSERT DATE 5 YEARS AFTER THE DATE ABOVE].

Signed this ____ day of _____ , 2001.

_____
Sam Becker
Acting Director, Water Quality Protection Division
EPA Region 6

TABLE OF CONTENTS

PART I. PERMIT AREA AND COVERAGE
- A. Permit Area
- B. Permit coverage
- C. Eligibility for Coverage
- D. Limitations on coverage
- E. Requirements for Obtaining coverage
- F. Requiring an Individual Permit
- G. Permit Expiration

PART II. PERMIT REQUIREMENTS
- A. Effluent Limitations
- B. Other Legal Requirements

PART III. SPECIAL CONDITIONS
- A. Minimum Requirements to Protect Water Quality
- B. Comprehensive Nutrient Management Plan (CNMP)
- C. Management Practices
- D. Requirements for Land Application Activities Not Under the Control of the Permitted EPO Operator
- E. Environmental Management System (EMS)

PART IV. DISCHARGE MONITORING AND NOTIFICATION REQUIREMENTS
- A. Notification of Discharges from Retention Structures and Improper Land Application
- B. Monitoring Requirements for Discharges from Retention Structures
- C. General Inspection, Monitoring, and Record Keeping Requirements
- D. Additional Monitoring Requirements

PART V. STANDARD PERMIT CONDITIONS
- A. General Conditions
- B. Proper Operation and Maintenance
- C. Monitoring and Records
- D. Reporting Requirements
- E. Signatory Requirements
- F. Certification
- G. Bypass
- H. Upset
- I. Penalties for Violations of Permit Conditions

PART VI. DEFINITIONS

PART I. PERMIT AREA AND COVERAGE

A. Permit Area

This permit covers EPO operations in New Mexico, Oklahoma, and on Indian lands in New Mexico and Oklahoma.

B. Permit Coverage

1. Who is eligible to be covered under this permit?

This general permit is available for any EPO that has agreed to participate in the United Egg Producers (UEP) XL Project and has qualified for coverage by this general permit as outlined in Parts I.C, D, and E, below.

2. What does the NPDES permit for EPOs cover?

NPDES permits issued to EPOs cover the animal confinement areas, storage facilities and unloading/handling areas of manure or egg wash wastewater, and land application activities under the operational control of the EPO. General permit coverage is contingent upon continuing implementation of an environmental management system (EMS), consistent with the guidelines developed by UEP, as determined by audits conducted by an independent third party. EPOs that fail to comply with the terms of a general permit or fail to adequately implement their EMS could be required to apply for an individual NPDES permit by the permitting authority.

3. What EPO discharges are regulated by this permit?

A discharge of waste/wastewater is the discharge of pollutants from the animal confinement or storage and handling areas of a EPO, or from the land application area(s) under the control of the CAFO operator, which enters: (1) surface waters, such as a river, stream, creek, wetland, lake, or other waters of the United States and/or (2) ground waters that have a direct hydrologic connection to surface water. Discharges regulated by this permit include, but are not limited to the following discharges that reach waters of the U.S.:

Contaminated runoff from stock piled manure and feed;

Overflow from manure storage facilities, including secondary containment;

Discharges via ground water that has a direct hydrologic connection to surface

waters of the U.S.;

Discharges associated with land application of manure and/or wastewater activities under the control of the EPO operator;

Manure and/or wastewater discharges from retention ponds, manure storage facilities, or lagoons, including secondary containment;

Discharges of manure and/or wastewater due to pipe breakage or equipment failure;

Leaks or seepage from retention ponds, manure storage facilities, lagoons to ground water that has a direct hydrologic connection to surface waters of the U.S.;

Discharge of pollutants from dead bird and nonedible egg handling and storage; and

Spills or leakage from the poultry houses or the pit under the poultry houses.

C. Eligibility for Coverage

Unless excluded from coverage in accordance with Section D or F below, owners/operators of EPOs are eligible, under the terms and conditions of this permit, and upon the submission of a notice of intent (NOI) and a summary of the results of a successful environmental management system (EMS) audit, to gain coverage under this NPDES general permit. Permittees must retain, on site of the permitted EPO, a copy of the permit, the comprehensive nutrient management plan (CNMP) and the EMS as required by this permit, and submit a copy of the CNMP and a summary of an annual EMS audit to the permitting authority upon request by the permitting authority (see Part III). In addition, the permittee must retain records indicating that it is implementing an EMS, consistent with the requirements described in Section C of Part IV of this permit. At a minimum, these records must: (1) describe the EMS and (2) include all records of audits by independent 3rd parties, as well as a description of the corrective actions taken, if any, to address any major deficiencies identified in these audits.

A permittee who is authorized by this permit may request to be excluded from coverage under this permit by submitting a completed notice of termination to the permitting authority, or applying for an individual NPDES permit in accordance with Part I.F(2).

D. Limitations on Coverage

The following EPOs are not eligible for coverage under this NPDES general permit:

1. EPOs that have failed an audit by an independent third party or been notified by EPA to apply for an individual NPDES permit in accordance with Part I.F (below) of this permit.

2. EPOs that have been notified by EPA that they are ineligible for coverage because of a past history of non-compliance.

3. New and/or significantly expanding EPOs that apply manure and/or wastewater to lands that are adjacent to water bodies listed under the Clean Water Act, section 303(d), as impaired due to inadequate oxygen, excessive nutrients, suspended solids, turbidity and/or pathogens and are notified by the EPA to apply for an individual NPDES permit. A significantly expanding EPO means one which meets the criteria of 40 CFR 122.29(b)(1)(i),(ii) and/or (iii); although, such facilities do not meet the definition on new source in 40 CFR 122.2.

4. EPOs which have liquid manure handling systems and/or unlimited continuous flow watering systems.

5. Facilities which adversely affect properties listed or eligible for listing in the National Register of Historical Places.

E. Requirements for Obtaining Coverage

1. Owners/operators of EPOs seeking to be covered by this permit (see Part I) must submit: (1) a notice of intent (NOI) to be covered by this permit; (2) evidence that the EPO has developed and implemented an EMS consistent with the guidelines set forth below in Part III.E; (3) the results of a successful audit conducted by an independent third party for the purpose of applying for this permit; and (4) evidence that the EPO: has placed a notice in the local newspaper that indicates the EPO has passed the audit and intends to submit the NOI, has sent the notice directly to local stakeholders, and has established a point of contact at the facility for public inquiries.

2. Owners/operators of new EPOs, constructed after the effective date of this permit, must submit an NOI, have a complete comprehensive nutrient management plan (CNMP) and an EMS at least 180 days prior to commencement of operation.

3. Owners/operations of existing EPOs having a significant expansion (see Part

I.D.3, above), constructed after the effective date of this permit, must submit an NOI for the expansion, a CNMP (or revised CNMP) addressing the expansion, and a revised EMS at least 180 days prior to commencement of operation of the expansion.

4. The NOI must be signed by the owner/operator or other authorized person in accordance with Part V.E of this permit and include the name of the EPO contact person.

5. Signed copies of the NOI and any subsequent reports shall be sent to:

Water Enforcement Branch (6EN-WC)
U.S. Environmental Protection Agency, Region 6
P.O. Box 50625
Dallas, TX 75250

Upon receipt of the notification, EPA will notify the facility of its specific facility identification number that must be used on all correspondence with the Agency.

6. Unless otherwise notified in writing by the Regional Administrator after submission of the NOI and other information required by Part I.E.1, above, operators requesting coverage are authorized to discharge under this general permit and subject to its terms and conditions.

F. Requiring an Individual Permit

1. The EPA may require any EPO authorized by this permit to apply for, and obtain, an individual NPDES permit. EPA will notify the EPO owner/operator, in writing, that an application for an individual permit is required. This notice will include a brief statement of the reasons for the decision, an application form, a statement setting a time for the owner or operator to file the application, and a statement that on the effective date of the individual NPDES permit, the coverage of the EPO under this general permit is automatically terminated.

2. Any EPO owner/operator authorized under this permit may request to be excluded from the coverage of this permit by applying for an individual permit. The EPO owner/operator shall submit an application for an individual NPDES permit (Form 1 and Form 2B) along with any other information required by the EPA. If an individual NPDES permit is issued to an EPO owner/operator otherwise subject to this general permit, or the EPO owner/operator is approved for coverage under an alternative NPDES general permit, the applicability of this NPDES EPO

general permit to the facility is automatically terminated on the effective date of the individual NPDES permit or on the date that coverage commences under the alternative NPDES general permit. Otherwise, the applicability of this general permit to the facility remains in full force and effect (for example, if an individual NPDES permit is denied to an owner/operator otherwise subject to this general permit, or the owner/operator is denied coverage under the an alternative NPDES general permit).

G. Permit Expiration

This general permit will expire five (5) years after its effective date. If this permit is not reissued prior to its expiration date, it will be administratively continued in accordance with the Administrative Procedures Act. Any EPO authorized by this permit prior to the expiration date will remain authorized under this permit until the permit is reissued or EPA publishes a determination not to reissue this permit.

PART II. PERMIT REQUIREMENTS

A. Effluent Limitations

The following effluent limitations apply to EPOs covered under this general permit, and cover both the production and the land application areas under the control of the EPO:

1. Production Areas: There shall be no discharge of process wastewater pollutants to waters of the United States, except when a catastrophic rainfall event causes an overflow of process wastewater from a facility properly designed, constructed, maintained, and operated to contain:

   a. All process generated wastewater resulting from the operation of the EPO; plus,

   b. All runoff from a 25 year, 24-hour rainfall event for the location of the EPO.

2. There shall be no discharge of process wastewater pollutants from retention or control structures to groundwater that has a direct hydrologic connection to waters of the United States.

3. Land Application Area: For discharges associated with land application of process wastewater and/or manure under the control of the EPO operator,

including discharges to groundwater that has a direct hydrologic connection to waters of the United States:

a. The EPO must ensure that such activities comply with the requirements of Minimum Standard 9, in Part III.A, Table III.A, of this permit.

b. There shall be no discharge of manure and/or process wastewater from land application areas.

4. Other requirements: the EPO is required to comply with the special conditions established in Part III of this permit.

B. Other Legal Requirements

No condition of this permit shall release the permittee from any responsibility or requirements under other statutes or regulations, Federal, State/Indian Tribe or Local.

PART III. SPECIAL CONDITIONS

A. Minimum Requirements to Protect Water Quality

This permit identifies (See Table III.A below) specific minimum standards that the permittee must meet to achieve the effluent limitations in this permit, including requirements that address proper land application of manure and wastewater. The minimum standards (or portions thereof) that must be implemented immediately upon coverage by this permit are indicated by an asterisk (*). The permittee must comply with the remaining minimum standards (or portions thereof) in accordance with the enforceable schedule for developing and implementing a CNMP, which is established in Section III. B. of this permit. All of the requirements to protect water quality must be based on the minimum requirements of Table III.A and incorporated into the site-specific CNMP developed and implemented for the permitted EPO.

Table III.A - Minimum Standards to Protect Water Quality in NPDES Permits for EPOs

Each of the following minimum standards is designed to achieve the objective of preventing discharge of pollutants to waters of the U.S. and from land application activities under the operational control of the EPO. Minimum requirements or portions of minimum requirements that must be implemented on the effective date of the permit are identified with an asterisk (*). In addition to these minimum requirements, permittees are also required to comply with water quality-based effluent limitations in Part II.A(1).

1. MINIMUM STANDARD - BUFFERS OR EQUIVALENT PRACTICES

Provide and maintain buffer strips or other equivalent practices near the animal confinement areas, manure storage areas, and land application areas that are sufficient to minimize the discharge of pollutants to waters of the U.S. (e.g., soil erosion and manure and wastewater). These practices may include but are not limited to: residue management, conservation crop rotation, grassed waterways, strip cropping, vegetative buffers, terracing, and diversion.

2. MINIMUM STANDARD - DIVERT CLEAN WATER

*****Design and implement management practices to divert clean water and runoff waters from contact with the animal confinement areas; animal manure; or manure and/or process wastewater storage systems. Clean water and runoff waters includes rain falling on the roofs of facilities, runoff from adjacent land, or other sources.

3. MINIMUM STANDARD - PREVENT DIRECT CONTACT OF ANIMALS WITH WATERS OF THE U.S.

*****Develop and implement appropriate controls to prevent direct access of animals in confinement to waters of the U.S. to protect water quality.

4. MINIMUM STANDARD - ANIMAL MORTALITY

*****Handle and dispose of dead animals in a manner that prevents contamination of surface waters of the U.S. (including contamination of groundwater with a direct hydrological connection to surface waters).

5. MINIMUM STANDARD - CHEMICAL DISPOSAL

*****Prevent introduction of chemicals into manure and wastewater storage structures for purposes of disposal. Examples include pesticides, hazardous and toxic chemicals, and petroleum products/by-products.

6. MINIMUM STANDARD - PROPER OPERATION AND MAINTENANCE

*****Implement an operation and maintenance program to minimize the discharges of pollutants to surface water and groundwater that is hydrologically connected to surface water that involves periodic visual inspection and maintenance of all manure storage and handling equipment and structures and all runoff management devices (e.g., cleaning separators, barnyards, catch basins, screens, annual testing and calibration of land application equipment to ensure proper application rates and maintenance of filter strips).

7. MINIMUM STANDARD - RECORD KEEPING AND TESTING

*****Maintain a log that documents the visual inspections, findings, preventative maintenance, testing, and calibration that has been performed.

*****Document the date, rate, location, types of crops, and methods used for application of manure and wastewater, as well as other nutrients, to land under the control of the EPO operator.

Where manure and wastewater are not applied on land under the operational control of the EPO operator, maintain a record of the transfer of the manure off-site.

*Record the results of annual manure and wastewater sampling to determine nutrient content.

*Record the results of representative soil sampling and analyses conducted at least every three years to determine nutrient content.

8. MINIMUM STANDARD - MAINTAIN PROPER STORAGE CAPACITY

*Maintain sufficient freeboard in liquid manure/wastewater storage structures to assure compliance with the permit conditions.

*Store dry manure in production buildings or in storage facilities or in another as to prevent polluted runoff, (e.g, located on relatively flat land, away from waterbodies, wetlands and wells, and/or surrounded by a berm or buffer).

Provide adequate storage capacity so that land application occurs only during periods when land or weather conditions are suitable for manure and wastewater application (see Minimum Standard #9, below).

9. MINIMUM STANDARD - RATES AND TIMING OF LAND APPLICATION OF MANURE AND WASTEWATER

*Land apply manure and/or wastewater in accordance with proper agricultural practices.

Land apply manure and/or wastewater in accordance with land application rates developed on a site-specific basis as needed to protect water quality. At a minimum, land application rates should (1) prevent application of nutrients at rates that will exceed the capacity of the soil and the planned crops to assimilate nutrients and minimize water pollution; and (2) be quantified and based on the most limiting nutrient in the soil (e.g., phosphorus or nitrogen), type of crop, realistic crop yields, soil type, and all nutrient inputs in addition to those from manure and wastewater.

Incorporate manure applied to the bare soil surface within 24 hours after land application.

*Land application of manure and/or wastewater is prohibited on land that is flooded, saturated with water, frozen or snow covered (unless approved conservation measures of a certified CNMP are in place to prevent off-site movement of contaminated water) at the time of land application where the manure and/or wastewater may enter waters of the U.S.

*Land application of manure and/or wastewater is prohibited on land with slopes greater than 6 per cent unless approved conservation measures of a certified CNMP are in place to prevent off-site movement of contaminated water.

*Land application of manure and/or wastewater is prohibited during the period of November 15 through April 15 on land with slopes greater than 3 per cent unless approved conservation measures of a certified CNMP are in place to prevent off-site movement of contaminated water.

*Land application of manure and/or wastewater is prohibited during rainfall events and for 24 hours prior to a 60 per cent forecasted rainfall event of 1/4 inch or more.

B. Comprehensive Nutrient Management Plan (CNMP)

1. Elements of a CNMP

Each EPO covered by this permit shall develop and implement a site-specific CNMP that includes the following elements as appropriate to the needs and circumstances of the permitted facility: animal outputs; manure handling and storage; land application of manure and wastewater; site management; record keeping; and other manure and/or wastewater utilization options. The CNMP must be developed and implemented to meet all of the minimum standards identified in Section A of this Part to protect water quality that are applicable to the permitted facility. The CNMP must be developed and implemented to meet the requirements of the CWA, current State and U.S. Department of Agriculture-Natural Resources Conservation Service (NRCS) technical standards and the applicable criteria contained in NRCS's CNMP Technical guidance.

Each CNMP shall specifically identify and describe practices that are to be implemented to assure compliance with the limitations and conditions of this permit. The CNMP shall identify a specific individual(s) at the facility responsible for its implementation. The activities and responsibilities of such personnel must be described in the CNMP. CNMPs are to be developed as a special condition of the NPDES permit, and where applicable must contain the information in a. and b. below:

a. Existing Facility Plans: Where a facility has previously prepared information that supports one or more of the five elements of a CNMP as outlined in the "NRCS Technical Guidance for Developing CNMPs," the EPO may adopt this information for incorporation into the facility-specific CNMP.

b. Signatory Requirements: The CNMP shall be signed by the EPO owner/operator or other signatory authority in accordance with Part V.E (Signatory Requirements).

c. The EPA or authorized representative may notify the permittee, at any time, that the CNMP does not meet one or more of the minimum requirements of this Part B. The permittee shall make changes to the CNMP within 90 days after such notification unless otherwise provided by the EPA.

2. Schedule for Developing, Submitting, and Implementing a CNMP

a. For existing EPO facilities -

Following the submission of the NOI, any existing EPO covered by this NPDES general permit shall develop and implement a CNMP no later than 2 years after the effective date of this general permit. The permittee must notify the permitting authority in writing within thirty days following the completed development of the site-specific CNMP.

b. For EPO facilities constructed after the effective date of this permit -

New EPOs must have developed a CNMP at least 180 days prior to commencement of operation. (See Part I.E.2 of this permit.)

c. For existing EPOs having significant expansions, constructed after the effective date of this permit, a CNMP (or revised CNMP) addressing the expansion must be developed at least 180 days prior to commencement of operation of the expansion. (See Part I.E.3.)

. 3. Certified Specialists to Develop CNMPs

If the Natural Resources Conservation Service (NRCS) has specified CNMP certification requirements for the State in which the EPO is located, the EPO's CNMP must be developed or approved (including any modifications) by a certified specialist defined by the NRCS. The NRCS will specify the requirements for certification. While the permittee may seek technical assistance from an outside source and must obtain approval from a certified specialist, it is the permittee's sole responsibility to assure that the effective implementation of the CNMP results in compliance with all permit conditions.

4. CNMP is to be Maintained On Site

A current copy of the CNMP shall be kept on the site of the permitted EPO in accordance with Part V.C (Retention of Records) of this permit and provided to the permitting authority upon request of the permitting authority.

5. Duty to Amend the CNMP

The permittee must amend the CNMP whenever: (1) the facility makes a substantive change in how it manages its operations, including the location, method, timing or frequency of land application; or (2) a discharge occurs in violation of this NPDES permit. Where the facility is located in an impaired watershed, CNMPs should also be reviewed and amended, as needed, as part of the TMDL process. The facility must complete and submit to EPA notification of any substantial changes to the CNMP and an annual certification that the CNMP has been reviewed to assess its adequacy in protecting water quality.

C. Management Practices

1. Emergency Discharge Impact Abatement: Discharges authorized by Part II.A(1) of this permit must, where practicable, be released to vegetated fields for filtering or captured in secondary containment to minimize discharge to waters of U.S.

2. Irrigation Control: Irrigation systems shall be managed so as to reduce or minimize: (1) ponding or puddling of wastewater on land application fields; and (2) contamination of ground and surface water.

3. Spills: Appropriate measures necessary to prevent spills and to clean up spills of any toxic and other pollutants shall be taken. If possible spills are anticipated, materials handling procedures and storage must be specified in the CNMP.

Procedures for cleaning up spills shall be identified, and the necessary equipment to implement clean up shall be made available to facility personnel. All spills resulting in actual or potential to discharge to waters of th U.S. must be reported to EPA and State/Indian Tribe authorities.

4. Measurement of Rainfall: A rain gauge meeting National Weather Service standards or its equivalent shall be kept on site of all EPOs which collect egg wash wastewater in uncovered lagoons or basins or which practice land application of manure or egg wash wastewater. A log of all measurable rainfall events shall be kept by the EPO operator/owner.

5. Liner Requirement: Where a direct hydrologic connection through ground water exists, the ponds, lagoons and basins of the retention structure must have a liner which will prevent the potential contamination of surface waters.

6. Employee Training: Where employees are responsible for work activities which relate to permit compliance, those employees must be regularly trained or informed of any information pertinent to the proper operation and maintenance of the facility and waste disposal. Training shall include topics as appropriate such as land application of wastes, proper operation and maintenance of the facility, good housekeeping and material management practices, necessary record-keeping requirements, and spill response and clean up. The permittee is responsible for determining the appropriate training frequency for different levels of personnel and the CNMP shall identify periodic dates for such training. This training program must also be included in the EMS.

7. Chemical Handling: The owner/operator shall prevent the discharge of pesticide-contaminated waters into retention structures. All wastes from dipping vats, pest and parasite control units, and other facilities utilized for the management of potentially hazardous or toxic chemicals shall be handled and disposed of in a manner such as to prevent pollutants from entering the retention structures or waters of the United States.

8. Discharges of Chemicals to Containment Structures: All discharges to containment structures shall be composed entirely of wastewater from the proper operation and maintenance of an EPO and the precipitation runoff from the EPO areas. The disposal of any materials (other than materials and discharges associated with proper operation and maintenance of the EPO) into the containment structures is prohibited by this permit.

9. Siting and Structural Integrity: Site and construct new facilities so as to comply with applicable State and/or local requirements. In the absence of applicable State and/or local requirements, new facilities must be constructed to meet NRCS, ASCS, or equivalent engineering and construction standards. Existing facilities must be checked and maintained to ensure their structural integrity, and that they are appropriately sized for egg-producing operations.

10. Facility Closure: The following conditions shall apply to the closure of egg washing storage structures and other litter and wastewater facilities:

a. Closure of Egg Washing Wastewater Storage Structures

No egg washing wastewater storage structure shall be permanently abandoned without proper closure.

Egg washing wastewater storage structures shall be maintained at all times until closed in compliance with this section.

Egg washing wastewater storage structures must be properly closed if the permittee ceases operation. In addition, any egg washing wastewater storage structure that is not in use for a period of twelve consecutive months must be properly closed unless the facility is financially viable, intends to resume use of the structure at a later date, and either: (1) maintains the structure as though it were actively in use, to prevent compromise of structural integrity; or (2) removes manure and wastewater to a depth of one foot or less and maintains a depth of wastewater sufficient to preserve the integrity of the synthetic or earthen liner. In either case, the permittee shall notify the EPA of the action taken, and shall conduct routine inspections, maintenance, and record-keeping as though the structure were in use. Prior to restoration of use of the structure, the permittee shall notify the EPA and provide the opportunity for inspection.

All closure of lagoons and other earthen or synthetic lined basins must be consistent with NRCS standards (currently, Field Technical Guide No. 998, Interim Standard for Closure of Abandoned Waste Treatment Lagoons and Waste Storage Ponds). Consistent with NRCS standards, the permittee shall remove all waste materials to the maximum extent practicable and dispose of them in accordance with the permittee's CNMP, unless otherwise authorized by the EPA. If the permittee plans to land apply lagoon sludge, the CNMP should have special conditions for such application based on the most limiting contaminant in the waste.

Unless otherwise authorized by the EPA, completion of closure for egg washing wastewater storage structures shall occur as promptly as practicable after the permittee ceases to operate or, if the permittee has not ceased operations, 12 months from the date on which the use of the structure ceased, unless the lagoons or basins are being maintained for possible future use in accordance with the requirements above.

b. Closure Procedures for Manure and Other Wastewater Facilities

No manure or other wastewater control and retention structure shall be abandoned. Closure of all such structures shall occur as promptly as practicable after the permittee has ceased to operate, or, if the permittee has not ceased to operate, within 12 months after the date on which the use of the structure ceased. To close a manure or wastewater control and retention structure, the permittee shall remove all manure and wastewater and dispose of it in accordance with the permittee's CNMP, unless otherwise authorized by the EPA.

D. Requirements for Land Application Activities Not Under the Control of the Permitted EPO Operator.

In cases where EPO-generated manure is to be used for land application activities that are not under the operational control of the permitted EPO, such land application does not need to be addressed in the permitted EPO's CNMP. However, the permittee must comply with the following conditions:

1. Maintain records showing the date and amount of manure and/or wastewater that leaves the permitted operation;

2. For quantities of greater than one metric ton per recipient per day, record the name and address of the recipient;

3. Provide the recipient(s) with representative information on the nutrient content of the manure and/or wastewater to be used in determining the appropriate land application rates; and

4. Inform the recipient of his/her responsibility to properly manage the land application of the manure and/or wastewater to minimize the discharge of pollutants to waters of the U.S.; and

5. Offer technical assistance to the recipient to develop and implement a site-specific CNMP.

These records must be retained on-site, and must be submitted to the permitting authority upon

request.

E. Environmental Management System (EMS)

In order to be eligible for coverage under a general permit, EPOs must have an environmental management system (EMS) in place that is consistent with EMS Elements developed by EPA, the United Egg Producers (UEP), States, and others as a part of EPA's Project XL agreement with UEP, which was signed October 25, 2000. Throughout the process of developing the EMS, each EPO is responsible for seeking input from local stakeholders and responding to any issues raised.

In addition, prior to seeking coverage under this general permit, EPOs must successfully complete an audit of their EMS by a qualified independent 3rd party organization no earlier than 6 months before applying for coverage under this permit, again consistent with the Project XL agreement signed by EPA and the UEP. Information on the results of successful audits must be made available to the local community when the facility decides to apply for coverage under the general permit, and the facility must provide local community members with the opportunity to comment on this information. Information about the EMS and the EPO's performance will be made available to the public.

When formally submitting the notice of intent to be covered under the general permit to the permitting authority, the EPO must provide a copy of any written comments received from the community and indicate how these and any other verbal comments were obtained addressed. Once a facility is accepted for coverage under the general permit, annual third party audits must be conducted and the results of these audits must be available to the public.

PART IV. DISCHARGE MONITORING AND NOTIFICATION REQUIREMENTS

A. Notification of Discharges from Retention Structures and Improper Land Application

If, for any reason, there is a discharge of pollutants to a water of the U.S., the permittee is required to notify EPA Region 6 in writing within five (5) working days of the discharge from the facility. In addition, the permittee shall keep a copy of the written notification submitted to EPA Region 6 together with the CNMP. The discharge notification shall include the following information:

1. Description of the discharge: A description of the discharge and its cause, including a description of the flow path to the receiving water body and an estimate of the flow and volume discharged.

2. Time of the discharge: The period of noncompliance, including exact dates and times,

the anticipated time it is expected to continue, and steps taken or planned to reduce, eliminate and prevent recurrence of the discharge.

B. Monitoring Requirements for Discharges from Retention Structures

In the event of any overflow or other discharge of pollutants to waters of the U.S. from a manure and/or wastewater storage structure, the following actions shall be taken:

1. Analysis of the discharge: All discharges shall be sampled and analyzed. Samples must, at a minimum, be analyzed for the following parameters: fecal coliform bacteria; five-day biochemical oxygen demand (BOD_5); total suspended solids (TSS); total phosphorus as phosphorus; dissolved phosphorus as phosphorus; ammonia-nitrogen as nitrogen; TKN as nitrogen; nitrate as nitrogen; pH; metals; and temperature.

2. Estimate volume of the discharge: Record an estimate of the volume of the release and the date and time.

3. Sampling procedures: Samples shall consist of grab samples collected from the over-flow or discharges from the retention structure. A minimum of one sample shall be collected from the initial discharge (within 30 minutes). The sample shall be collected and analyzed in accordance with EPA approved methods for water analysis listed in 40 CFR 136. Samples collected for the purpose of monitoring shall be representative of the monitored discharge. Monitoring results must be submitted to the permitting authority within 30 days.

4. Reasons for not sampling: If conditions are not safe for sampling, the permittee must provide documentation of why samples could not be collected. For example, the permittee may be unable to collect samples during dangerous weather conditions (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.). However, once dangerous conditions have passed, the permittee shall collect a sample from the retention structure (pond or lagoon) from which the discharge occurred.

C. General Inspection, Monitoring, and Record Keeping Requirements

The permittee shall inspect, monitor, and record the results of such inspection and monitoring in accordance with Table 4–1:

TABLE 4–1. PERIODIC INSPECTION AND MONITORING REQUIREMENTS

PARAMETER	UNITS	FREQUENCY
Facility inspection[1]		

Review all facilities and land application areas addressed in the EPO's CNMP to evaluate whether measures to reduce pollutant loadings identified in the CNMP are adequately and properly implemented in accordance with the terms of the permit or whether additional control measures are needed	NA	Annually
Egg washing storage structure monitoring and inspection		
Freeboard[2]	Feet	Weekly
Structural integrity (i.e., integrity of berms)[3]	NA	Weekly
Integrity of liners and absence of a hydrologic connection[4]	NA	Once/5 years

Sampling of manure/wastewater and land application soils[5]		
Sample manure and wastewater to determine available nutrient content (nitrogen and phosphorus).	ppm	Conduct initial sampling. Then sample at least once per year thereafter.
Sample land application soils to determine nutrient content (nitrogen and phosphorus).	Pounds per acre	Conduct initial sampling. Then sample at least once every three years thereafter.
Land application activities		
Duration of land application activities[5]	Hours/day	Daily
Quantity of manure/wastewater applied to land application fields[5]	Gallons/day or Tons/day	Daily
Application rate[5]	Tons/acre	Daily
Application area[5]	Acres	Daily
Precipitation		
Rainfall[6]	Inches	Daily

Footnotes:

[1] A complete inspection of the facility shall be done and a report made annually.

[2] For lagoons or other liquid storage basins, report the water level as feet below the emergency overflow level. For solid manure storage structures, report the percentage of remaining storage capacity.

[3] Documentation of compliance with this requirement must be compiled in an inspection report to be kept at the facility.

[4] Permittee shall document compliance with this requirement by preparing a report that must be kept at the facility.

[5] Monitor during periods of land application only. Estimate application quantity and rate from the number of truckload spread per day. Land application practices must be conducted in accordance with the permittee's CNMP.

[6] The permittee shall maintain a precipitation gauge at each permitted facility conducting land application or collecting egg wash wastewater in uncovered lagoons or berms, and record the rainfall for each 24-hour period.

D. Additional Monitoring Requirements

Additional analysis: Upon request by EPA Region 6, the permittee may be required to collect and analyze samples including but not limited to soils, surface water, ground water, and/or stored waste in a manner and frequency specified by EPA Region 6.

Additional monitoring for some high risk operations: Upon notification by EPA Region 6, the permittee may be required to conduct ambient monitoring of surface and/or groundwater (where there is a possible direct hydrologic connection between the ground water and surface waters). For example, facilities with significant environmental concerns, or facilities impacting impaired water bodies.

PART V. STANDARD PERMIT CONDITIONS

A. General Conditions

1. Introduction: In accordance with the provisions of 40 CFR Part 122.41, et. Seq., this permit incorporates by reference ALL conditions and requirements applicable to NPDES Permits set forth in the Clean Water Act, as amended, (hereinafter known as the "Act") as well as ALL applicable regulations.

2. Duty to Comply: The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action; for permit termination, revocation, and reissuance; for denial of a permit renewal application; and/or for requiring a permittee to apply for and obtain an individual NPDES permit. It is expected that the EMS and independent 3rd party audits will identify minor noncompliance issues for prompt correction.

3. Toxic pollutants: The permittee shall comply with effluent standards and prohibitions established under section 307(a) of the Act for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

4. Permit actions: This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

5. Property rights: The issuance of this permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal,

State/Tribal or local laws or regulations.

6. Duty to provide information: The permittee shall furnish to the Permitting Authority, within a reasonable time, any information which the Permitting Authority may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the Permitting Authority, upon request, copies of records required to be kept by this permit.

7. Criminal and Civil Liability: Nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance. Any false or materially misleading representation or concealment of information required to be reported by the provisions of the permit, the Act, or applicable regulations, which avoids or effectively defeats the regulatory purpose of the Permit may subject the Permittee to criminal enforcement pursuant to 18 U.S.C. Section 1001.

8. State/Tribal Laws: Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State/Tribal law or regulation under authority preserved by Section 510 of the Act.

9. Severability: The provisions of this permit are severable, and if any provision of this permit or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

B. Proper Operation and Maintenance

1. Need to halt or reduce activity not a defense: It shall not be a defense for a permittee in an enforcement action to plead that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

2. Duty to mitigate: The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

3. Proper operation and maintenance: The permittee shall, at all times, properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance includes the operation of backup or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of the permit.

C. Monitoring and Records

1. Inspection and entry: The permittee shall allow the EPA, or an authorized representative of EPA, upon the presentation of credentials and other documents as may be required by law, to:

    a. Enter the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

    b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

    c. Inspect, at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit, and

    d. Sample or monitor, at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by the Act, any substances or parameters at any location.

2. Representative sampling: Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

3. Retention of records: The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three years from the date of the sample, measurement, report, or application. This period may be extended by request of the permitting authority at any time.

4. Record content: Records of monitoring information shall include:

    a. The date, exact place, and time of sampling or measurements;

    b. The individual(s) who performed the sampling or measurements;

    c. The date(s) analyses were performed;

    d. The individual(s) who performed the analyses;

    e. The analytical techniques or methods used; and

    f. The results of such analyses.

5. Monitoring procedures:

   a. Monitoring, when necessary, must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit or approved by the Regional Administrator.

   b. The permittee shall calibrate and perform maintenance procedures on all monitoring and analytical instruments at intervals frequent enough to insure accuracy of measurements and shall maintain appropriate records of such activities.

   c. An adequate analytical quality control program, including the analyses of sufficient standards, spikes, and duplicate samples to insure the accuracy of all required analytical results shall be maintained by the permittee or designated commercial laboratory.

D. Reporting Requirements

1. Physical Alterations: The permittee shall give advance notice to the EPA of any planned physical alterations or additions or changes in activity which may result in noncompliance with requirements in this permit.

2. Transfers: This permit is not transferable to any person except after notice to the EPA. The EPA may require modification or revocation and reissuance of the permit to change the name or the permittee and incorporate such other requirements as may be necessary under the CWA.

3. Twenty-four Hour Reporting:

   a. The permittee shall report any noncompliance that may endanger human health or the environment. Any information must be provided orally to within 24 hours from the time that the permittee becomes aware of the circumstances to EPA Region 6 at 214-665-6595. A written submission shall also be provided to EPA within five (5) days of the time the permittee becomes aware of the circumstances. The written submission shall contain the following information:

      i) A description of the noncompliance and its cause;

      ii) The period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and

iii) Steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

b. The following shall be included as information which must be reported within 24 hours:

i) Any unanticipated bypass which exceeds any effluent limitation in this permit.

ii) Any upset which exceeds any effluent limitation in this permit.

iii) Violation of a maximum daily discharge limitation for any of the pollutants listed by the permitting authority in this permit to be reported within 24 hours.

c. The permitting authority may waive the written report on a case-by-case basis for reports under this Part if the oral report has been received within 24 hours.

4. Other Noncompliance: The permittee shall report all instances of noncompliance not reported not reported under this Part at the time monitoring reports are submitted. The reports shall contain the information listed in Part V.D.

5. Other Information: Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to EPA Region 6, it shall promptly submit such facts or information to EPA Region 6.

E. Signatory Requirements

All applications, reports, or information submitted to EPA Region 6 shall be signed and certified consistent with 40 CFR §122.22:

1. **All permit applications** shall be signed as follows:

a. For a corporation: By a responsible corporate officer. For the purpose of this section, a responsible corporate officer means:

i) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

ii) The manager of one or more manufacturing, production, or

operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures; or

b. For a partnership or sole proprietorship: By a general partner for a partnership or the proprietor, respectively. All applications, reports, or information submitted to the EPA shall be signed and certified consistent with 40 CFR §122.22:

2. All reports required by the permit and other information requested by the EPA shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:

a. The authorization is made in writing by a person described above;

b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, superintendent, position of equivalent responsibility, or any individual or position having overall responsibility for environmental matters for the company. A duly authorized representative may thus be either a named individual or an individual occupying a named position; and,

c. The written authorization is submitted to the EPA.

F. Certification

Any person signing a document under this section shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for

submitting false information, including the possibility of fine and imprisonment for knowing violations."

G. Bypass

1. **Definitions**

   a. **Bypass** means the intentional diversion of waste streams from any portion of a treatment facility.

   b. **Severe property damage** means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

2. **Bypass not exceeding limitations.** The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Part V.G.(3) and (4).

3. **Notice - a. Anticipated bypass.** If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten days before the date of the bypass.

   b. **Unanticipated bypass.** The permittee shall submit notice of an unanticipated bypass as required in D.3 of this Part.

4. **Prohibition of Bypass**. a. Bypass is prohibited, and the permitting authority may take enforcement action against a permittee, unless:

   i) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

   ii) There were no feasible alternatives to the bypass such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgement to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

   iii) The permittee submitted notices as required under G.3 of this Part.

b. The permitting authority may approve an anticipated bypass, after considering its adverse effects, if the permitting authority determines that it will meet the three conditions listed above in G.4.a of this Part.

H. Upset

1. **Definition**

Upset means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, lack of preventive maintenance, or careless or improper operation.

2. **Effect of an upset.** An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of H.3. of this Part are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

3. **Conditions necessary for a demonstration of upset.** A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

   a. An upset occurred and that the permittee can identify the cause(s) of upset;

   b. The permitted facility was at the time being properly operated; and

   c. The permittee submitted notice of the upset as required in D. of this Part (24 hour notice).

   d. The permittee complied with any remedial measures required under B.2 of this Part.

4. **Burden of Proof.** In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

I. Penalties for Violations of Permit Conditions

A violation of the EMS could result in the EPO being required to apply for an individual NPDES permit. The Clean Water Act provides the following for any violations of the terms and conditions of this permit:

1. **Criminal Penalties**

a. Negligent violations: The Act provides that any person who negligently violates Section 301, 302, 306, 307, 308, 318, or 405 of the Act or any condition or limitation implementing those provisions in a permit issued under Section 402 is subject to a fine of not less than $2,750 nor more than $27,500 per day of violation, or by imprisonment for not more than one year, or both.

b. Knowing violations: The Act provides that any person who knowingly violates Sections 301, 302, 306, 307, 308, 318, or 405 of the Act or any permit conditions implementing those provisions is subject to a fine of not less than $5,500 nor more than $55,000 per day of violation, or by imprisonment for not more than three years, or both.

c. Knowing endangerment: The Act provides that any person who knowingly violates Sections 301, 302, 303, 306, 307, 308, 318, or 405 of the Act or permit conditions implementing those provisions and who knows at that time that he is placing another person in imminent danger of death or serious bodily injury is subject to a fine of not more than $275,000, or by imprisonment for not more than 15 years, or both.

d. False statements: The Act provides that any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under the Act or who knowingly falsifies, tampers with, or renders inaccurate, any monitoring device or method required to be maintained under the Act, shall upon conviction, be punished by a fine of not more than $11,000, or by imprisonment for not more than two years, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $22,000 per day of violation, or by imprisonment of not more than four years, or by both. [See Section 309 (c) 4 of the Clean Water Act]

2. **Civil penalties**

The Act provides that any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a civil penalty not to exceed $27,500 per day for each violation. [See Section 309(d)]

3. **Administrative penalties**

The Act provides that the Administrator may assess a Class I or Class II administrative penalty if the Administrator finds that a person has violated

Sections 301, 302, 306, 307, 308, 318, or 405 of the Act or a permit condition or limitation implementing these provisions, as follows [See Section 309(g)]:

a. Class I penalty: Not to exceed $11,000 per violation nor shall the maximum amount exceed $27,500.

b. Class II penalty: Not to exceed $11,000 per day for each day during which the violation continues nor shall the maximum amount exceed $137,500.

PART VI. DEFINITIONS

25-year, 24-hour rainfall event means the maximum 24-hour precipitation event with a probable recurrence interval of once in 25 years, as defined by the National Weather Service in Technical Paper Number 40, "Rainfall Frequency Atlas of the United States," May 1961, and subsequent amendments, or equivalent regional or state rainfall probability information developed therefrom.

Best Management Practices ("BMPs") means those schedules of activities, maintenance procedures, and other management practices of an egg production operation that are designed to minimize or prevent pollution of the air, water, or soil to control odor or pests.

Certified Conservation Planner and Certified Specialist means a professional who is certified for CNMP development and/or approval pursuant to USDA and EPA technical guidance or CNMP development (e.g., both engineering and agronomic components of the CNMP).

Comprehensive Nutrient Management Plan (CNMP): means a group of conservation practices and management activities which, when combined into a system, will help to ensure that both production and natural resources goals are achieved. It incorporates practices to utilize animal manure and organic by-products as a beneficial resource. A CNMP addresses natural resource concerns dealing with nutrient and organic by-products and their adverse impacts on water quality.

Catastrophic rainfall event is equivalent to a 25-year, 24-hour storm event. Catastrophic events include tornadoes, hurricanes, or other catastrophic conditions that would cause an overflow from the waste retention structure that is designed, constructed, operated, and maintained to meet all the requirements of this permit.

Expanded egg production operation means an operation that adds any number of confined hens so that the manure and wastewater produced exceeds the design capacity of the existing manure and wastewater storage facility or the operation's comprehensive

nutrient management plan (CNMP).

Ground water means water below the land surface in a zone of saturation (40 CFR §258.2)

Land application means the application of manure and/or wastewater onto or incorporation into the soil.

Land under the operational control of the EPO means any land owned, leased or otherwise controlled by the EPO owner/operator for the purpose of land applying manure and/or wastewater generated at the EPO.

Liner means any barrier in the form of a layer, membrane or blanket, installed to prevent discharges to waters of the U.S.

Notice of Intent (NOI) is a form submitted by the EPO owner/operator applying for coverage under a general permit. It requires the applicant to submit the information necessary for adequate program implementation, including, at a minimum, the legal name and address of the owner or operator, the facility name and address, type of facility or discharges, and the receiving stream(s). [(40 CFR §128.28(b)(2)(ii)].

Nutrient Balance means determining the proper rate and timing of nutrients required to grow the planned crop by balancing the nutrients that are already in the soil and from other sources with those that will be applied in manure, biosolids, and commercial fertilizer. At a minimum, a nutrient balance determination should be based on preventing the application of nutrients at rates that will exceed the capacity of the soil and planned crops to assimilate nutrients and prevent water pollution; and be quantified and based on the most limiting nutrient in the soil, type of crop, realistic crop yields, soil type, and all nutrient inputs in addition to those from manure and wastewater. CNMPs that establish the appropriate rate and timing for land application of manure and wastewater should be developed for the CAFO by the USDA-NRCS or any third party vendor certification programs that may include, but are not limited to: 1) American Society of Agronomy's certification programs, including Certified Crop Advisors (CCA) and Certified Professional Agronomists (CPAg), Crop Scientists (CPCSc), and Soil Scientists (CPSSc); 2) Land Grant University certification programs; 3) National Alliance of Independent Crop Consultants (NAICC); and State certification programs.

Owner/operator means any person who owns, leases, operates, controls, or supervises a source.

Process wastewater means any process-generated wastewater and any precipitation (e.g., rain or snow) which comes into contact with any manure, litter or bedding, or any other raw material or intermediate or final material or product used in or resulting from the

production of animals or poultry or direct products (e.g., milk, eggs).

Process-generated wastewater means any water directly or indirectly used in the operation of a feedlot for any of the following: spillage or overflow from animal or poultry watering systems; washing, cleaning or flushing pens, barns, manure pits, or other feedlot facilities; direct contact swimming, washing or spray cooling of animals; and dust control.

Qualified groundwater scientist means a scientist, or engineer who has received a baccalaureate or post-graduate degree in natural sciences, or engineering and has sufficient training and experience in groundwater hydrology and related fields as may be demonstrated by State registration, professional certifications, or completion of accredited university programs that enable that individual to make sound professional judgements regarding ground-water monitoring, contaminant fate and transport, and corrective action [40 CFR 258.50 (g)]

Retention facilities or retention structures means all collection ditches, conduits and swales for the collection of runoff and wastewater, and all basins, ponds and lagoons used to store wastes, wastewater and manure.

Runoff means collected or uncollected gravity flow overland of water from rain, melted snow, or agricultural or landscape irrigation.

Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

The Act means Federal Water Pollution Control Act as amended, also known as the Clean Water Act as amended, found at 33 USC 1251 et seq.

Toxic pollutants means any pollutant listed as toxic under Section 307(a)(1) of the Act.

Under the Operational Control means a person who the Director determines to be an operator on the basis that the person exercises substantial operational control of the EPO. In making this determination, the Director shall consider whether the person:

1. Directs the activity of persons working at the EPO either through a contract or direct supervision of, or on-site participation in, activities at the facility;

2. Owns the animals;

3. Specifies how the animals are grown, fed, or medicated; or

4. Meets any other factor that the Director determines demonstrates that the person exercises substantial operational control over the EPO.

Waters of the United States means: (1) all waters that are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters that are subject to the ebb and flow of the tide; (2) all interstate waters, including interstate wetlands; (3) all other waters such as intrastate lakes, rivers, and streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters: (a) which are or could be used by interstate or foreign travelers for recreational or other purposes; from which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or, which are or could be used for industrial purposes by industries in interstate commerce; (4) all impoundments of waters otherwise defined as waters of the U.S.; (5) tributaries of waters identified in (1) through (4) of this definition; (6) the territorial sea; and (7) wetlands adjacent to waters (other than waters that are themselves wetlands) identified in items (1) through (6) of this definition.